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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,460	03/04/2002	Rick L. Murphy	02-40048-US	8567

7590 04/23/2003

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EXAMINER

CHENG, JOE H

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 04/23/2003

05

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,460

Applicant(s)

MURPHY, RICK L. 

Examiner

Joe H. Cheng

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

Art Unit: 3713

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed method steps of automatically and temporarily interrupting by an agent of the engaging in the at least one activity, allowing at least one user to reengage with the activity, retrieving data format least one remote database, and generating at least one Hyper Text Transfer Protocol request; and the claimed structural elements of a detector for automatically monitoring, code for temporarily and automatically interrupting, a gaming counsel, at least one communications device, a telephone, and at least one communicator for coordinating the interrupting must be shown or the feature(s) canceled from the claim(s). *No* new matter should be entered. Correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not understood as to what the references for “automatically and temporarily interrupting, by said agent, of said engaging in said at least one activity, dependently upon said detecting”, “allowing said at least one user to reengage with said activity based upon an interaction with said agent during said presenting” (as per claim 1), “at least one of operating a

Art Unit: 3713

software application, participating in a chat group, surfing the web, participating with instant messaging, and perceiving an audio/visual presentation” (as per claims 2 and 16), “a collaborative interaction of said plurality users with said enabled agent” (as per claims 3 and 17), “retrieving data from at least one remote database by any one of manual and automatic use of a Uniform Resource Locator address” (as per claims 4 and 18), “generating at least one Hyper Text Transfer Protocol request” (as per claims 5 and 19), “a database of user characteristics” (as per claims 6 and 20), “a detector for automatically monitoring” (as per claim 7), “code for temporarily and automatically interrupting” (as per claims 7 and 15), “a gaming counsel” (as per claim 10), “at least one communications device” (as per claim 11), “a telephone” (as per claim 12), “at least one communicator for coordinating said interrupting” (as per claim 14), and “code for allowing said at least one user to reengage with said activity based upon user interaction with said enabled agent” (as per claim 15) are being referred to. In addition, the antecedent basis for “a collaborative interaction of said plurality users with said enabled agent” (as per claim 3) and “the completed further data” (as per claim 9) is lacking. Further, claim 13 is rejected as being indefinite and fails to further limit the subject matter, because it is the duplicate of claim 7.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3713

5. Claims 7-17 and 20 as best understood are rejected under 35 U.S.C. § 102(e) as being anticipated by Marshall (U.S. Pub. No. 2002/0116266 A1). The broadly claimed structure can be interpreted as the method and system for tracking and providing incentives for time and attention of persons and for timing of performance of tasks of Marshall. Figs. 1-15 of Marshall broadly discloses the method and system having at least one microprocessor device, which including a personal computer and a gaming counsel, for providing educational services to at least one user engaging in at least one activity by automatically monitoring of the at least one user engaging in at least one activity by an agent (i.e. program administrator), detecting an occurrence of at least one criteria by the agent, automatically and temporarily interrupting of the engaging in the at least one activity dependently upon the detecting by the agent (see 0073), automatically presenting education services to at least one user by the agent, allowing the at least one user to reengage with the activity, such as operating a software application or surfing the web, based on the user interaction which is associated with the educational services (105), and at least one system resource provider being suitable for interacting and providing data indicative of the at least one educational service via at least one communications network (510).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3713

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-6, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall (U.S. Pub. No. 2002/0116266 A1) in view of LoSasso et al (U.S. Pub. No. 2003/0008266 A1).

Regarding to claims 1-6, 16, 18 and 19, it is noted that the teaching of Marshall does not specifically disclose the automatically presenting educational services to at least one user by the agent during the interrupted (as per claim 1), retrieving data from at least one remote database by using a Uniform Resource Locator address (as per claims 4 and 18), or generating at least one Hyper Text Transfer Protocol request (as per claims 5 and 19) as required. However, the teaching of LoSasso et al broadly discloses the automatically presenting educational services to at least one user by the agent during the interrupted, retrieving data from at least one remote database by using a Uniform Resource Locator address, or generating at least one Hyper Text Transfer Protocol request (see Figs. 1-21). Hence, it would have been obvious to one of ordinary skill in the art to modify the method and system of Marshall with the features of the automatically presenting educational services to at least one user by the agent during the interrupted, using a Uniform Resource Locator address to retrieve data, or generating Hyper Text Transfer Protocol request as taught by LoSasso et al as both Marshall and LoSasso et al are directed to the method and system for providing educational services to at least one user

Art Unit: 3713

engaging in at least one activity, so as to provide the educational services during the interrupting and retrieving data through the internet.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kershaw et al (U.S. Pat. No. 5,827,070) - note Figs. 1-100F;

Trenholm et al (U.S. Pat. No. 6,234,806 B1) - note Figs. 1-12;

Freeman et al (U.S. Pat. No. 6,301,462 B1) - note Figs. 1-7;

Ginter et al (U.S. Pub. No. US 2002/0112171 A1) - note Figs. 1-87;

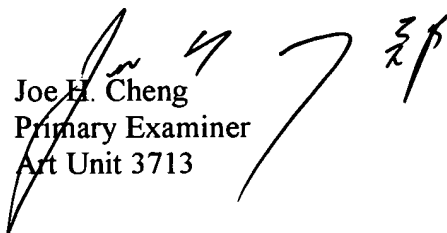
Brewer et al (U.S. Pub. No. US 2002/0156857 A1) - note Figs. 1-7B;

Guheen et al (U.S. Pat. No. 6,519,571 B1) - note Figs. 1-97.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (703)308-2667. The examiner can normally be reached on Mon. - Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703)308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.


Joe H. Cheng
Primary Examiner
Art Unit 3713

Joe H. Cheng
April 18, 2003